



Town of Southern Shores

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ZTA-16-02 Large Structures 14 Occupancy

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE TOWN OF SOUTHERN SHORES, NORTH CAROLINA

ARTICLE I. Purpose(s) and Authority.

WHEREAS, the Town of Southern Shores (the “Town”) is a predominately single-family residential community for families and retirees, as well as a vacation destination for seasonal visitors who rent single-family dwellings; and

WHEREAS, The Town is a quiet seaside residential community comprised primarily of small low density neighborhoods consisting of single family homes primarily on large lots (i.e., at least 20,000 sq ft); and

WHEREAS, the Town has long desired to maintain its low density residential character by not permitting large oversized homes, increased commercial development and increased density. The Town recognizes that increases in density increase the need for public services related to safety, fire prevention, water supply, schools and traffic congestion; and

WHEREAS, the Town recognizes that property owners enjoy the use of their property for parties and family related events on a regular basis and that such use should continue long into the future. However, the Town also recognizes that a growing trend on the Outer Banks and other coastal areas in North Carolina and nationally, is to construct large buildings on residentially zoned properties which purport to be single-family dwellings, but which are often designed for and after construction and permitting advertised, maintained and used as commercial event facilities; and

WHEREAS, the Town’s residential areas have limited means of access due to the layout of roads and limited number of major thoroughfares in the Town. The road layout and limited number of thoroughfares already cause numerous traffic problems, particularly during the high traffic tourist season from approximately Memorial Day to Labor Day each year. The use of single-family residences in residentially zoned areas for pre-planned events, community uses and private parties increases traffic and safety hazards to the attendees, owners, neighbors and visitors to the Town; and

WHEREAS, pursuant to North Carolina General Statutes § 160A-174 the Town may enact and amend ordinances that define, prohibit, regulate, or abate acts, omissions, or conditions, detrimental to the health, safety, or welfare of its citizens and the peace and dignity of the Town, and may define and abate nuisances; and

1
2 **WHEREAS**, pursuant to N.C.G.S. § 160A-381, the Town may enact and amend
3 ordinances regulating the zoning and development of land within its jurisdiction and
4 specifically the height, number of stories and size of buildings and other structures, the
5 percentage of lots that may be occupied, the size of yards, courts and other open spaces,
6 the density of population, the location and use of buildings, structures and land. Pursuant
7 to this authority and the additional authority granted by N.C.G.S. Chap. 160A, Art. 19 et
8 seq, the Town has adopted a comprehensive zoning ordinance (the “Town’s Zoning
9 Ordinance”) and has codified the same as Chapter 36 of the Town’s Code of Ordinances
10 (the “Town Code”); and
11

12 **WHEREAS**, pursuant to N.C.G.S. § 160A-383, the Town may use zoning
13 regulations to provide adequate light and air; to prevent the overcrowding of land; to avoid
14 undue concentration of population; to lessen congestion in the streets; to secure safety from
15 fire, panic, and dangers; and to facilitate the efficient and adequate provision of
16 transportation, water, sewerage, schools, parks, and other public requirements. In doing so,
17 the Town may take into account the character of the Town’s zoning districts and their
18 peculiar suitability for particular uses with a view to conserving the value of buildings and
19 encouraging the most appropriate use of land throughout the Town; and
20

21 **WHEREAS**, 2015 N.C. Sess. Law 86 made substantial changes to the text of
22 N.C.G.S. § 160A-381 which purport to limit the Town’s authority to regulated “building
23 design elements.” In particular, the changes to N.C.G.S. § 160A-381 prohibit the Town
24 from regulating density or use of residential structures through restrictions on the number
25 of bedrooms as the Town has historically regulated such density. These changes require
26 that the Town’s Zoning Ordinance be updated accordingly; and
27

28 **WHEREAS**, the Town finds that in order to effectively regulate the density of
29 population within the Town following the adoption of 2015 N.C. Sess. Law 86 the Town
30 must regulate and limit the occupancy of single-family dwellings; and
31

32 **WHEREAS**, the Town finds that setting a reasonable maximum design limitation
33 for septic systems on single-family dwellings remains a fair and equitable balancing of the
34 Town’s interests to regulate population density and to maintain the historical and
35 residential character of developed areas of Town compared with property owners’ interests
36 in using their property for residential purposes; and
37

38 **WHEREAS**, the Town does not desire for commercial event facilities to operate
39 within its residentially zoned districts and the Town finds that the following amendments
40 are necessary to further clarify the delineation between such event facility usage and single-
41 family residential dwellings; and
42

43 **WHEREAS**, the Town finds that a lack of regulation of the maximum design for
44 septic systems of dwellings and the use of the residential properties for pre-planned events,
45 community uses and private parties will result in a decrease in value of buildings and lands

1 within the Town due to the Town’s unique single-family residential nature and character;
2 and
3

4 **WHEREAS**, the Town further finds that in accordance with the findings above it
5 is in the interest of and not contrary to the public's health, safety, morals and general
6 welfare for the Town to amend the Town’s Zoning Ordinance and Town Code of
7 Ordinances as stated below.
8

9 **ARTICLE II. Construction.**

10
11 For purposes of this ordinance amendment, underlined words (underline) shall be
12 considered as additions to existing Town Code language and strikethrough words
13 (~~strikethrough~~) shall be considered deletions to existing language. Any portions of the
14 adopted Town Code which are not repeated herein, but are instead replaced by an ellipses
15 (“...”) shall remain as they currently exist within the Town Code.
16

17 **ARTICLE III. Amendment of Zoning Ordinance.**

18
19 NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Southern
20 Shores, North Carolina, that the Town Code shall be amended as follows:
21

22 **PART 1. That Sec 36-57. Definitions of specific terms and words.** be amended as
23 follows:
24

25 ...
26 *Dwelling, large home*, means any residential structure ~~home~~ designed or constructed to
27 have containing more than seven bedrooms (or rooms that could be considered as bedrooms
28 using the county criteria for determining septic system design) or septic system capacity
29 for more than 14 people. Large home dwellings are not a permitted use in any zoning
30 district unless expressly authorized by that district’s regulations.
31

32 ...
33 *Dwelling, single-family*, means a detached building designed for or occupied exclusively
34 by one family. Large home dwellings having septic system capacity for more than 14
35 people are not included within the term “single-family dwelling.”
36

37 *Dwelling, two-family (duplex)*, means a detached building, divided horizontally or
38 vertically, and designed for or occupied by two single-family housekeeping units contained
39 entirely under one roof and having one dividing partition common to each unit, or having
40 the ceiling structure of the lower unit and the floor structure of the unit above. Large home
41 dwellings having septic system capacity for more than 14 people are not included within
42 the term “two-family dwelling.”
43

44 ...
45 *Event facility* means an establishment, structure or property designed, maintained,
46 advertised or actually used for the primary purpose of hosting pre-planned events. The term
47 “events”, includes, but is not limited to, private parties, community uses, weddings,
48 rehearsal dinners, corporate meetings, retreats, sporting events, cultural events, musical
49 events, celebrations, festivals, fairs, carnivals, circuses or similar events that are planned

1 in advance of their occurrence. The term “community uses” means meetings of charitable,
2 political, governmental or civic groups. The term “private parties” means events that are
3 not open to the public, and are held by or on behalf of an individual or organization for the
4 primary purpose of socializing or gathering. On site sales of food and/or beverages at an
5 event facility service for purchase by individual patrons from the establishment owner,
6 whether seated or non-seated, shall constitute a restaurant as defined in section 36-57 which
7 shall require a conditional use permit. The term “event facility” does not include the use of
8 a residential structure or property on which a residential structure is located for non-
9 commercial social gatherings or for traditional family events. The term “traditional family
10 events” includes, but is not limited to, holiday parties and meals, birthday parties, funeral
11 services, religious ceremonies and weddings for family members related by blood or
12 marriage to: (i) any of the individual holders of legal title to the property; (ii) a majority of
13 the owners of a business entity holding legal title to the property; or (iii) the beneficiaries
14 of a trust holding legal title to the property.

15
16 *Family* means one or more persons occupying a single-family dwelling unit, provided that
17 unless all members are related by blood or marriage or that the dwelling unit is being used
18 as a vacation rental under the North Carolina Vacation Rental Act (N.C.G.S. Chap. 42A),
19 then no such family shall contain more than five persons.

20
21 **PART 2. That Sec 36-202. RS-1 single-family residential district.** be amended as
22 follows:

23 ...
24 (b) Permitted uses. The following uses shall be permitted by right:
25 (1) Detached single-family dwelling ~~consisting of no more than seven bedrooms or septic~~
26 ~~system capacity for more than 14 people.~~

27
28 **PART 3. That Sec 36-203. RS-8 residential district.** be amended as follows:

29 ...
30 (b) Permitted uses. The following uses shall be permitted by right:
31 ...
32 (9) ~~Dwellings shall consist of no more than seven bedrooms or septic system capacity for~~
33 ~~more than 14 people.~~

34
35
36 **PART 4. That Sec 36-204. RS-10 residential district.** be amended as follows:

37 ...
38 (b) Permitted uses. The following uses shall be permitted by right:
39 (1) ~~Detached single-family dwellings shall consist of no more than seven bedrooms or~~
40 ~~septic system capacity for more than 14 people.~~

41
42
43 **PART 5. That Sec 36-205. R-1 low-density residential district.** be amended as follows:

44 ...
45 (b) Permitted uses. The following uses shall be permitted by right:

(1) Detached single-family dwelling ~~consisting of no more than seven bedrooms or septic capacity for more than 14 people.~~

PART 6. That **Sec 36-207. C general commercial district.** be amended as follows:

...

(b) Permitted uses. The following uses shall be permitted by right:

...

(4) Detached ~~S~~single-family dwellings, two-family (duplexes) dwellings, multifamily dwellings, large home dwellings, and accessory buildings, according to the dimensional requirements of RS-8 multifamily residential district. Large home dwellings shall be exempt from section 36-203(d)(8) requirements. For multifamily dwellings, the lot coverage shall not exceed 40 percent.

...

(10) ~~Dwelling, large homes.~~

~~(11)~~ Event facilities.

PART 7. That **Sec 36-163. Off-street parking requirements** be amended as follows:

...

(3) *Minimum parking requirements.* ...

a. *Residential and related uses.*

1. Detached ~~S~~single-family dwelling units, two-family detached dwelling units and townhouses: three parking spaces for each dwelling unit with up to four bedrooms (including all areas used for sleeping), eight (8) persons of septic capacity and one additional space for each additional four (4) persons of septic capacity two bedrooms (including areas useable for sleeping), or fraction thereof, in excess of four eight (8) person septic capacity.

(i) ~~Bedrooms and/or areas useable for sleeping shall be defined and~~ The number of persons of septic capacity shall be determined by the county health department in establishing residence occupancy limits for wastewater/septic system.

...

4. Dwelling, large home: one parking space for each ~~bedroom~~ two (2) persons of septic capacity as ~~. Bedrooms and/or areas useable for sleeping shall be defined and determined by the county health department in establishing residence occupancy limits for wastewater/septic system. ...~~

ARTICLE IV. Statement of Consistency with Comprehensive Plan and Reasonableness.

The Town's adoption of this ordinance amendment is consistent with the Town's adopted comprehensive zoning ordinance, land use plan and any other officially adopted plan that is applicable. For all of the above-stated reasons, any reasons stated during the meetings at which this ordinance amendment was considered and any additional reasons supporting the

1 Town's adoption of this ordinance amendment, the Town considers the adoption of this
2 ordinance amendment to be reasonable and in the public interest.

3
4 **ARTICLE V. Severability.**

5
6 All Town ordinances or parts of ordinances in conflict with this ordinance amendment are
7 hereby repealed. Should a court of competent jurisdiction declare this ordinance
8 amendment or any part thereof to be invalid, such decision shall not affect the remaining
9 provisions of this ordinance amendment nor the Zoning Ordinance or Town Code of the
10 Town of Southern Shores, North Carolina which shall remain in full force and effect.

11
12 **ARTICLE VI. Effective Date.**

13
14 This ordinance amendment shall be in full force and effect from and after the ____ day of
15 _____, 2016.

16
17
18
19 _____,
20 Tom Bennett, Mayor

21
22
23
24 ATTEST:

25
26
27 _____
28 Town Clerk

29
30
31 APPROVED AS TO FORM:

32
33
34 _____
35 Town Attorney

36
37 Date adopted:

38
39 _____
40 Motion to adopt by Councilmember:

41 _____
42 Motion seconded by Councilmember:

43
44
45
46 Vote:___AYES___NAYS